

## NEBRASKA STATE BOARD OF HEALTH MEETING

### MINUTES – January 25, 2016

**ATTENDANCE NOTIFICATION.** A regular meeting of the State Board of Health was called to order by the Chair, Wayne Stuberg, PT, PhD, at 11:00 AM on January 25, 2016 in the Board Room of the Nebraska Bar Association in Lincoln. Copies of the agenda were mailed to board members, news media, and other interested parties prior to the meeting, and posted on the Health and Human Services website. The following members were present: Kevin Borchert, PharmD, RP; Shane Fleming, MSN, RN; Russell Hopp, DO; Diane Jackson, APRN; Teresa Konda, PE; Kevin Low, DDS; Dale Michels, MD; Tony Moravec, DVM; Debra Parsow; Paul Salansky, OD; Wayne Stuberg, PhD, PT; Travis Teetor, MD; James Trebbien, Public Member; Doug Vander Broek, DC Quorum met.

Members not in attendance: Joshua Vest, DPM; Jeromy Warner, PsyD, LP

Staff attending: Ron Briel, Matt Gelvin, Monica Gissler, Marla Scheer

**APPROVAL OF ANNUAL REPORT.** The Board of Health annual report for 2015 was discussed. Copies will be sent to Governor Ricketts, Lt. Governor Foley, members of the HHS Legislative Committee, professional board chairs, local health directors, health care professional associations, key HHS staff, and other interested parties. Dr. Borchert made a motion to approve the annual report; Ms. Jackson seconded. Call for vote on motion - voting yes: 14 (Borchert, Fleming, Hopp, Jackson, Konda, Low, Michels, Moravec, Parsow, Salansky, Stuberg, Teetor, Trebbien, Vander Broek); voting no: 0; not voting: 0. Motion carried, and report approved.

**LEGISLATIVE DISCUSSION.** Mr. Fleming, Chair of the Public Health, Education and Legislation Committee, listed bills of interest to his committee, as determined during a committee conference call held on January 21, 2016, and committee discussion held the morning of January 25<sup>th</sup>. Conference call participants included Dr. Borchert, Mr. Fleming, Ms. Konda, Dr. Michels, Ms. Parsow, Dr. Teetor, Dr. Vander Broek, and staff Monica Gissler.

Mr. Fleming explained the three categories that the Board of Health places legislative bill in: Category 1: Take action on; 2: Monitor and take possible action on, and 3: monitor.

BILL	INTRODUCER	BOARD OF HEALTH PRIORITIES 2015
668	Krist	Change certain federal references and provisions relating to provisional operator's permit restrictions, use of interactive wireless communication devices, and occupant protection system enforcement.
716	Kolowski	Provide and eliminate provisions regarding pedestrians and bicyclists.
721	Baker	Adopt the Surgical First Assistant Practice Act.
727	Schilz	Impose a tax on sales of tobacco at cigar shops.
859	Campbell	Change cease and desist orders under the Uniform Credentialing Act.
900	Bloomfield	Change motorcycle and moped helmet provisions, motorcycle registration

		fees, rename the Health Advisory Board, and create the brain injury services program and a fund.
962	Fox	Change requirements for the practice of acupuncture.
1009	Williams	Prohibit the sale and use of certain synthetic drugs under the Uniform Controlled Substances Act and the Uniform Deceptive Trade Practices Act.
1013	Gloor	Change tax on cigarettes and other tobacco products and provide for distribution of proceeds.
1061	Kolterman	Adopt the Surgical Technologist Registry Act.

Board of Health action means providing testimony or sending a letter either lending support or stating concerns regarding a bill. For each of the support and opposition bills listed above, the Board will send a letter and/or testify.

Dr. Stuberger asked if anyone wanted to separate out any bill for individual consideration. LB 1061 was identified for discussion under Item 12 Unfinished Business. Mr. Fleming made a motion to approve these legislative bills as the official Board of Health bills of interest for 2016. Call for vote on motion - voting yes: 14 (Borcher, Fleming, Hopp, Jackson, Konda, Low, Michels, Moravec, Parsow, Salansky, Stuberger, Teetor, Trebbien, Vander Broek); voting no: 0; not voting: 0. Motion carried. Whenever the Board of Health takes a position on a piece of legislation, a supermajority vote of 12 is required.

**RECESS.** The Board of Health recessed at 11:33 AM for lunch. Motion made by Dr. Michels; seconded by Dr. Hopp. All in favor by voice vote.

**RECONVENE.** Dr. Stuberger called the meeting back to order at 1:00 PM in Room 1023 of the State Capitol Building. The following members were in attendance: Kevin Borcher, PharmD, RP; Shane Fleming, MSN, RN; Russell Hopp, DO; Diane Jackson, APRN; Teresa Konda, PE; Kevin Low, DDS; Dale Michels, MD; Tony Moravec, DVM; Debra Parsow; Paul Salansky, OD; Wayne Stuberger, PhD, PT; Travis Teetor, MD; James Trebbien, Public Member; Doug Vander Broek, DC Quorum met.

**APPROVAL OF AGENDA.** Dr. Stuberger asked if there were any changes to the agenda for the meeting today. Ms. Parsow requested to add discussion of information learned during the luncheon with the senators. All in favor to add this item. There being no objections, the revised agenda was approved by consent calendar.

**APPROVAL OF MINUTES.** Dr. Stuberger asked if there were any changes to the minutes from the November 16, 2015 meeting. Dr. Vander Broek made a motion to approve the minutes, and Dr. Hopp seconded. There being no objections, the minutes were approved unanimously by roll call vote.

**LEGISLATIVE UPDATE.** Bryson Bartels presented on the DHHS legislative priorities and bills they are tracking. This is Day 13 of a long session. The Department has eight bills this year:

- LB 816 Change and eliminate provisions relating to state institution patients' records
- LB 859 Change cease and desist orders under the Uniform Credentialing Act
- LB 869 Require that certain providers under the Medical Assistance Act be subject to a national criminal history record information check
- LB 899 Change lead content provisions relating to the Nebraska Safe Drinking Water Act
- LB 924 Provide an additional withholding procedure for certain payments under the Income Withholding for Child Support Act
- LB 963 Change provisions relating to area plans and budgets under the Nebraska Community Aging Services Act
- LB 1011 Change provisions relating to at-risk managed care contracts as prescribed
- LB 1039 Define and redefine terms relating to developmental disabilities

There were 445 total bills introduced, not counting resolutions.

**CHAIRPERSON'S REPORT.** Dr. Stuberger reported the following:

1. Thank you for your vote of confidence during the November Board of Health election of officers. I look forward to serving as your Chair in 2016. I want to keep communication open and moving. Thank you as well to Dr. Salansky for presiding over the November meeting.
2. Has anyone attended any professional board meetings that they would like to report on?

- Dr. Teetor attended the Board of Medicine and Surgery meeting on January 22<sup>nd</sup>.

It is important that you let Monica know in advance when you plan to attend a meeting, and if you plan to attend the entire meeting or just a portion. If the meeting includes a working lunch, a lunch will not be ordered for you, unless specific arrangements are made.

3. I had hoped that today we would welcome our new hospital administrator on the Board of Health. CEO Phillips is reviewing applications, and will soon make recommendations to Governor Ricketts this vacancy, and hopefully for six reappointments.
4. There have been more staff changes at DHHS. In December, Rene Tiedt moved out of state, and Claire Covert-Bybee has been promoted into the Program Manager position over Community and Rehabilitative Services. Kevin Griess moved to Medicaid so Teresa Hampton will serve as the DHHS primary attorney for the Board of Health.
5. In March we will welcome Becky Wisell, Administrator of the Licensure Unit, to our meeting.
6. We have all been enjoying the low gas prices. As a result, the state and federal reimbursement rate for car travel has been readjusted to .54 per mile.

7. Today we hosted senators for our annual Legislative luncheon. If you have not already paid your share, please see Monica or Marla.

## **COMMITTEE REPORTS.**

### **Rules and Regulations Committee** – Dr. Borchert, Committee Chair, reported.

- Review Title 177 NAC 1- Rules and Regulations Relating to Analyses for the Determination of the Alcohol Content in Blood or Breath – Staff: Kris Chiles  
<http://www.sos.ne.gov/rules-and-regs/regtrack/proposals/0000000000001575.PDF>  
The proposed changes will add Intoximeters, all models, to the list of approved methods for law enforcement to use to perform evidentiary breath testing. A public hearing was held on January 22<sup>nd</sup>, and no members of the public attended.  
These regulations only require a review by the Board of Health, so no vote is required.

Reviewed updated UCA Regulations Status Report.

### **Credentialing Review (407) Committee** – Ms. Parsow, Committee Chair, presented.

Credentialing Review documents may be accessed at [http://dhhs.ne.gov/Pages/reg\\_admcr.aspx](http://dhhs.ne.gov/Pages/reg_admcr.aspx).

1. Recommendations on the Surgical Technologists' Proposal Formulated during the Special Meeting held on January 14, 2016. For more information, see the reports posted on the website.

**Summary of the Applicants' Proposal:** This proposal seeks to license surgical technologists. The surgical technologist profession has its own specific certification and educational standards. Under this proposal, the State of Nebraska would adopt the examination from the National Board of Surgical Technology and Surgical Assisting (NBSTSA) as the official exam for licensing the members of the ST profession in Nebraska. Only those surgical technologists who have passed this national surgical technologist certifying exam are eligible for licensure. According to the American College of Surgeons, "surgical technologists are individuals with specialized education who function as members of the surgical team in the role of scrub person." This statement summarizes the proposed surgical technologist scope of practice.

Dr. Stuberger invited public attendees to speak on this review.

- Don Wesely, on behalf of the Nebraska Nurses Association and independent ambulatory surgical centers
- Casey Glassburner, CST, on behalf of the Academy of Nebraska Surgical Technologists

Call for vote on motion to accept the recommendations of the Credentialing Review Committee formulated on January 14, 2016 - voting yes: 12 (Borchert, Fleming, Jackson, Konda, Michels, Moravec, Parsow, Salansky, Stuberger, Teetor, Trebbien, Vander Broek);

voting no: 2 (Hopp, Low); not voting: 0. Motion carried.

By this vote, the Board of Health recommended against approval of the surgical technology proposal.

Dr. Salansky moved and Ms. Parsow seconded that the Board of Health recommend in favor of the idea of registration as the best way of addressing concerns raised about the current unregulated practice of surgical technologists in Nebraska. Dr. Vander Broek commented that the Board is already on record recommending registration for surgical technologists in the body of its surgical first assistant report of 2015, and that it serves no purpose for the Board to restate this recommendation. Dr. Michels commented that LB 1061 submitted to the legislature earlier this month proposes a version of registration for this profession that has already become controversial, and that approving Dr. Salansky's motion could be misconstrued as constituting support for LB 1061. Dr. Teetor commented that the Board could recommend in favor of the original registration proposal included in the SFA proposal but it would not be a good idea to pass the motion currently under consideration. Mr. Fleming suggested that the Board add a comment to its forthcoming letter to the HHS Committee stating support for the original idea for a registry for surgical technologists described in the SFA proposal in 2015.

Call for vote on motion - voting yes: 13 (Borcher, Fleming, Hopp, Jackson, Konda, Low, Moravec, Parsow, Salansky, Stuberg, Teetor, Trebbien, Vander Broek); voting no: 1 (Michels); not voting: 0. Motion carried.

2. Volunteers for the upcoming Dialysis Technology Technical Review Committee. The Board Of Health representative will be Dr. Teetor.

**Volunteers from the Public Member Pool**

Michael Millea of Omaha

Michael O'hara, JD, PhD of Omaha

Corrinne Pedersen of Lincoln

**Volunteers from the Health Professional Pool**

Allison Dering-Anderson, PharmD, RP of Omaha

Denise Logan, BS, RT of Lincoln

Susan Meyerle, LIMHP, PhD of Lincoln

James Temme, RT of Omaha

There was a Committee motion to recommend these volunteers to CEO Phillips to serve on the Dialysis Technology Technical Review Committee. Voting yes: 14 (Borcher, Fleming, Hopp, Jackson, Konda, Low, Michels, Moravec, Parsow, Salansky, Stuberg, Teetor, Trebbien, Vander Broek); voting no: 0; not voting: 0. Motion carried.

**Professional Boards Committee.** Dr. Hopp, Committee Vice Chair, reported.

The Committee interviewed two applicants this morning, and make the following recommendations for appointment:

Board of Advanced Practice Registered Nurses:

Alice Kindschuh, DNP, APRN-CNS, GCNS-BC, CNE – Clinical Nurse Specialist

Board of Psychology

Jennifer Dreibelbis, Public Member

Center for Nursing: Wendy Kallhoff, RN – Recommendation to Governor Ricketts.

Voting yes: 14 (Borcher, Fleming, Hopp, Jackson, Konda, Low, Michels, Moravec, Parsow, Salansky, Stuberg, Teetor, Trebbien, Vander Broek); voting no: 0; not voting: 0. Motion carried.

The 2016 Vacancy List was reviewed. There are 44 planned vacancies to fill this year, including the carry over positions which did not get filled in November.

There will be interviews scheduled for March 14<sup>th</sup>. There are still eight positions with no applicants. We are particularly in need of public members.

It was suggested that on the Board of Health webpage, there be a link added to the DHHS Investigations page.

During the luncheon, Senator Crawford asked if the agency or board collects data on how many veterans are assigned to professional boards, and if there is any preferential treatment given to veterans. This question will be added to the applications.

**Public Health, Education and Legislation Committee:** Mr. Fleming, Committee Chair, continued his Committee report.

Board members shared their observations regarding the pros and cons of the Legislative luncheon.

**Investigations and Legal Issues.** DHHS Legal staff were invited to attend this meeting to answer questions regarding the DHHS Investigations, Complaints, and the Disciplinary processes. The issue was raised in June about the department's legal representation on the licensing Boards and the Boards coming forward with opinions that then result in the action that the Board of Health recently took asking the Director of HHS to request an AG opinion.

Peggy Persell from DHHS Investigations reviewed the process used. In 2015, there were 2,015 complaints.

Lisa Anderson from the Attorney General's office attended. There was a question about the legality of professional boards issuing legal opinions. She explained that professional boards may not issue "opinions" with the exception from the Board of Nursing, where it is in their statute.

Teresa Hampton had planned to attend, but was unable due to weather and scheduling conflicts.

**UNFINISHED BUSINESS.**

Dry Needling. CEO Phillips will send a letter to the Attorney General requesting a formal AG Opinion, as it relates to Physical Therapy. The impact on Athletic Trainers and Occupational Therapists may also be added to the request.

**NEW BUSINESS.**

- Location for September Meeting. Please bring your suggestions to the March meeting.
- Committee Goals. Dr. Stuberger asked all Board of Health members to review the goals of the standing committees, which are listed on the Committee Roster page, and be prepared to review, amend, and/or affirm them in March.
- **PUBLIC COMMENTS.** None.

**PREPARATION FOR NEXT MEETING.** The next regular Board of Health meeting will be March 14, 2016 at the State Office Building in Lincoln.

**ADJOURN.** There being no further business, Dr. Salansky made a motion to adjourn, with a second by Dr. Hopp, all in favor by voice vote. The meeting adjourned at 2:24 PM. Minutes were taken by Monica Gissler, and approved on March 14, 2016.

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*If you would like any attachments mentioned in these minutes, or have other questions, please contact Monica Gissler, 402/471-6515, Fax 402/471-0383, or email at: monica.gissler@nebraska.gov.*